

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Department of Insurance
Baton Rouge, Louisiana

September 18, 2002



Investigative Audit

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor

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Department of Insurance

September 18, 2002



**Investigative Audit
Office of the Legislative Auditor
State of Louisiana**

**Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor**

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OFFICE OF
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September 18, 2002

MR. ROBERT J. WOOLEY
ACTING COMMISSIONER OF INSURANCE
DEPARTMENT OF INSURANCE
Baton Rouge, Louisiana

Transmitted herewith is our investigative report of the Department of Insurance. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

This report presents our finding and recommendations, as well as your response. Copies of this report have been delivered to the Honorable Doug Moreau, District Attorney for the Nineteenth Judicial District of Louisiana, and other authorities as required by state law.

Respectfully submitted,

A handwritten signature in cursive script, reading "Daniel G. Kyle", is written over the typed name.

Daniel G. Kyle, CPA, CFE
Legislative Auditor

JLM:SLC:DGP:dl

[DO102]

Executive Summary

Investigative Audit Report Department of Insurance

Highlights. . .

During a two to four day period, four Department employees did not work 31% of the hours they reported on their time sheets.

On February 21, 2001, the Legislative Auditor issued a report that three Department employees were paid for hours that they did not work.

Since this pattern of abuse has continued, it appears that management has failed or neglected to ensure that employees work the number of hours reported.

Finding (See page 7.)

Four Department of Insurance (Department) employees submitted time sheets with false information and, as a result, were paid for hours they did not work. Our observation consisted of two to four days for each of the four employees and showed that the four employees did not work 31% of the hours that they reported on their time sheets. Those employees are Mr. Barry Karns, Executive Counsel; Mr. John Fontenot, Attorney II; Mr. Michael Boutwell, Insurance Compliance Examiner Specialist Supervisor; and Ms. Deborah Poirrier, Legal Secretary I.

This is not the first time that the Legislative Auditor has reported this pattern of abuse at the Department. On February 21, 2001, the Legislative Auditor issued a report stating that three Department employees were paid for hours that they did not work. (See the February 21, 2001, report at Appendix A.) In that report, we recommended that management implement procedures to ensure that employees work the hours that they report. We recommended that these procedures instruct supervisors as to their responsibility to ensure that time sheets are properly prepared and accurate and that all payments to employees are appropriate and correct.

Management responded to that report stating that the Department made management changes while taking additional measures intended to help ensure the accuracy of payroll reporting. Since this pattern of abuse has continued, it appears that management has failed or neglected to ensure that employees work the number of hours reported. The Legislative Auditor first received allegations on March 12, 2001, that Mr. Karns, Mr. Fontenot, Mr. Boutwell, and Ms. Poirrier were not working the number of hours they reported. Approximately one year later, we conducted the observations that led to this report.

Recommendations (See page 11.)

The Department should implement policies and procedures to ensure employees include only accurate information on their time sheets.

We recommend that the Department of Insurance implement policies and procedures to ensure employees include only accurate information on their time sheets. The Department should also ensure that employees actually work the hours they report. This policy should instruct supervisors as to their responsibility to ensure that time sheets are properly prepared and accurate and that all payments to employees are appropriate and correct. Finally, we recommend that the District Attorney for the Nineteenth Judicial District review this information and take appropriate legal action, to include seeking restitution.

Management's Response (See Appendix B.)

On July 24, 2002, management issued a memorandum detailing the Department's view on the importance of filling out time slips.

In trying to ensure compliance with time and attendance rules, on February 28, 2001, management conducted a mandatory meeting of all Department employees regarding leave policies. The importance of filling out leave slips and following Department regulations was discussed at the meeting. On July 24, 2002, management issued a memorandum to all Department staff reiterating this message and attached copies of the revised policies regarding leave, as well as the collection of signatures on time and attendance records.

In regard to the allegations in this report, the Department received the findings and took immediate action.

Mr. Karns will be suspended for two weeks at a total cost to him of \$3,268.80.

Mr. Karns submitted a leave slip for the hours he is accused of falsely claiming he worked. Mr. Karns failed to follow the Department's requirements for properly filling out time and attendance forms. Mr. Karns will be suspended from work without pay for a period of two weeks, or 80 hours, at a cost to him of \$3,268.80.

Mr. Fontenot will be suspended from work without pay for a period of two weeks with a total cost to him of \$1,953.60.

Because Mr. Fontenot allegedly failed to follow the Department's regulations regarding time and attendance, he will be required to submit a leave slip for the nine hours he is accused of being paid for that he did not work. In addition, Mr. Fontenot will be suspended from work without pay for a period of two weeks, or 80 hours, at a cost to him of \$1,953.60.

Ms. Poirrier will be suspended from work without pay for two weeks at a total cost to her of \$755.20.

The Department will require Ms. Poirrier to submit a leave slip for the four-hour period of time in question. Furthermore, Ms. Poirrier will be suspended from work without pay for a period of two weeks, or 80 hours, at a cost to her of \$755.20.

Mr. Boutwell will be suspended from work without pay for one week at a total cost to him of \$695.20.

In the case of Mr. Boutwell, the Department does not feel his alleged failure to submit three and a half hours of leave slips is a deliberate attempt at payroll fraud. However, in accepting the allegations as fact, the Department assumes that Mr. Boutwell did not follow the Department's guidelines for filling out his leave slips in a proper manner. Therefore, Mr. Boutwell will be suspended from work without pay for a period of one week, or 40 hours, at a cost to him of \$695.20.

Background and Methodology

The Louisiana Department of Insurance (Department) was created in accordance with Title 36, Chapter 17 of the Louisiana Revised Statutes of 1950, as a part of the executive branch of government. The Department is responsible for supervision and regulation of insurance companies doing business in the state to ensure competitive and available insurance that responsibly serves the insurance needs of Louisiana residents. The Department is under the direction of the Commissioner of Insurance who represents the public interest and is responsible to the legislature and the public.

The Office of the Legislative Auditor received allegations of possible improprieties within the department from an anonymous source.

The procedures performed during this investigative audit consisted of (1) interviewing employees and officials of the Department; (2) interviewing other persons as appropriate; (3) examining selected documents and records of the Department; (4) making inquiries and performing tests to the extent we considered necessary to achieve our purpose; and (5) reviewing applicable state laws.

The result of our investigative audit is the finding and recommendations herein.

Finding

Four Department of Insurance (Department) employees submitted time sheets with false information and, as a result, were paid for hours they did not work. Our observation consisted of two to four days for each of the four employees and showed that the four employees did not work 31% of the hours that they reported on their time sheets. Those employees are Mr. Barry Karns, Executive Counsel; Mr. John Fontenot, Attorney II; Mr. Michael Boutwell, Insurance Compliance Examiner Specialist Supervisor; and Ms. Deborah Poirrier, Legal Secretary I.

This is not the first time that the Legislative Auditor has reported this pattern of abuse at the Department. On February 21, 2001, the Legislative Auditor issued a report stating that three Department employees were paid for hours that they did not work. (See the February 21, 2001, report at Appendix A.) In that report, we recommended that management implement procedures to ensure that employees work the hours that they report. We recommended that these procedures instruct supervisors as to their responsibility to ensure that time sheets are properly prepared and accurate and that all payments to employees are appropriate and correct.

Management responded to that report stating that the Department made management changes while taking additional measures intended to help ensure the accuracy of payroll reporting. Since this pattern of abuse has continued, it appears that management has failed or neglected to ensure that employees work the number of hours reported. The Legislative Auditor first received allegations on March 12, 2001, that Mr. Karns, Mr. Fontenot, Mr. Boutwell, and Ms. Poirrier were not working the number of hours they reported. Approximately one year later, we conducted the observations that led to this report.

The Office of the Legislative Auditor received allegations that certain individuals at the Department were claiming hours on their time sheets that they had not actually worked. The Legislative Auditor conducted observations of these individuals and determined four employees submitted time sheets with false information and were paid for hours that they did not work. Each Department employee is required to sign a time sheet certifying that the number of hours reported are accurate and that all leaves of absence are supported by leave slips. None of the four employees submitted leave slips for the hours included in this report; however, Mr. Karns submitted leave slips subsequent to meeting with the Legislative Auditor.

Barry Karns

Mr. Karns is the Head of Receivership for the State of Louisiana. During the period February 14, 2002, through March 12, 2002, we observed Mr. Karns for three complete days and two half days. During this time, Mr. Karns'

Barry Karns

Hours Reported as Worked	32.5
Actual Hours Worked	<u>19.5</u>
Excessive Hours Claimed	<u>13.0</u>
Excessive Percentage	40%

time sheets reflect that he worked 32.5 hours. Our observation shows that he only worked 19.5 hours. Therefore, Mr. Karns was paid for 13 hours that he did not work.

Mr. Karns stated that he had no reason to doubt the accuracy of the Legislative Auditor's observations and that he had possibly failed to turn in leave slips for the hours he did not work. Mr. Karns added that his job requires a lot of reading, which he typically does at home and does not claim compensatory time.

John Fontenot

Mr. Fontenot is an attorney for the Department. During the period March 4, 2002, through March 14, 2002, we observed Mr. Fontenot for four days. Mr. Fontenot's time sheet indicates that he worked 32 hours during those four days. Our observation shows that Mr. Fontenot only worked 23 of those 32 hours. As a result, Mr. Fontenot was paid for 9 hours that he did not work.

John Fontenot	
Hours Reported as Worked	32
Actual Hours Worked	<u>23</u>
Excessive Hours Claimed	<u>9</u>
Excessive Percentage	29%

Mr. Fontenot stated that he is very careful about preparing leave slips and if there is a day when he did not turn in a leave slip it must have been a mistake. Mr. Fontenot also stated that the lunch hour is flexible and that he takes an hour to an hour and one-half for lunch. Finally, Mr. Fontenot claimed that while on vacation for three weeks he came into the office every day to take care of a specific task and did not claim compensatory time.

Michael Boutwell

Michael Boutwell	
Hours Reported as Worked	16.0
Actual Hours Worked	<u>12.5</u>
Excessive Hours Claimed	<u>3.5</u>
Excessive Percentage	22%

Mr. Boutwell is the Assistant Director of Business Licensing. During the period May 23, 2002, through May 28, 2002, we observed Mr. Boutwell for two days. Mr. Boutwell's time sheet shows that he worked 16 hours during those two days. Our observation shows that Mr. Boutwell worked only 12.5 hours and was therefore paid for 3.5 hours that he did not work.

Mr. Boutwell stated that he comes in late on occasion but calls his supervisor to let her know when he is going to be late. Mr. Boutwell also stated that he turns in his leave slips but does not know why his leave is not being recorded.

Deborah Poirrier

Ms. Poirrier is a secretary for the Department of Insurance. During the period February 19, 2002, through March 12, 2002, we observed Ms. Poirrier for two and a half days. Ms. Poirrier's time sheet indicates that she worked 16.5 hours during those days. Our observation shows that Ms. Poirrier only worked 12.5 hours and was paid for 4 hours that she did not work.

Deborah Poirrier

Hours Reported as Worked	16.5
Actual Hours Worked	<u>12.5</u>
Excessive Hours Claimed	<u>4.0</u>
Excessive Percentage	25%

Ms. Poirrier stated that if she did not record leave time it was just a mistake and only happened on a couple of occasions. Ms. Poirrier also requested that we submit our questions to her in writing so that she can consult with her attorney.

Total of all Four Employees

Hours Reported as Worked	97.0
Actual Hours Worked	<u>67.5</u>
Excessive Hours Claimed	<u>29.5</u>
Excessive Percentage	31%

Our observations indicate that these four employees were paid for a total of 29.5 hours of work that was not performed. Although this number of hours appears to be small, our observation consisted of only two to four days for each employee. Our observation shows that 31% of the hours reported by these employees were not worked. This problem could become quite costly to the Department if these employees are allowed to consistently submit time sheets with false information claiming hours that were not worked.

Mr. Karns, Mr. Fontenot, Mr. Boutwell, and Ms. Poirrier submitted time sheets containing false information and received compensation for hours they did not work. As a result of these actions, one or more of the following state laws may have been violated:

- R.S. 14:133, "Filing or Maintaining False Public Records"¹
- R.S. 14:134, "Malfeasance in Office"²
- R.S. 14:138, "Public Payroll Fraud"³

The actual determination as to whether any individual is subject to formal charge is at the discretion of the district attorney.

¹ R.S. 14:133 provides, in part, that filing false public records is the filing or depositing for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, any forged document, any wrongfully altered document, or any document containing a false statement or false representation of a material fact.

² R.S. 14:134 provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

³ R.S. 14:138 provides, in part, that payroll fraud is committed when any public officer or public employee shall carry, cause to be carried, or permit to be carried, directly or indirectly, upon the employment list or payroll of his office, the name of any person as employee, or shall pay any employee, with knowledge that such employee is receiving payment or compensation for services not actually rendered by said employee or for services grossly inadequate for such payment or compensation.

Recommendations

We recommend that the Department of Insurance (Department) implement policies and procedures to ensure employees include only accurate information on their time sheets. The Department should also ensure that employees actually work the hours they report. This policy should instruct supervisors as to their responsibility to ensure that time sheets are properly prepared and accurate and that all payments to employees are appropriate and correct. Finally, we recommend that the District Attorney for the Nineteenth Judicial District review this information and take appropriate legal action, to include seeking restitution.

Appendix A

Investigative Audit Report Dated February 21, 2001

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Department of Insurance
Baton Rouge, Louisiana

February 21, 2001



Investigative Audit

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor

Department of Insurance

February 21, 2001



**Investigative Audit
Office of the Legislative Auditor
State of Louisiana**

**Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor**

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February 21, 2001

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ACTING COMMISSIONER OF INSURANCE
DEPARTMENT OF INSURANCE
Baton Rouge, Louisiana

Transmitted herewith is our investigative report on the Department of Insurance. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

This report presents our findings and recommendations as well as management's response. Copies of this report have been delivered to the Honorable Doug Moreau, District Attorney for the Nineteenth Judicial District of Louisiana, and others as required by state law.

Respectfully submitted,


Daniel G. Kyle, CPA, CFE
Legislative Auditor

DGP:EKL:SDP:ss

[DOI]

Executive Summary

Investigative Audit Report Department of Insurance

The following summarizes the findings and recommendations as well as management's response that resulted from this investigation. Detailed information relating to the findings and recommendations may be found at the page number indicated. Management's response may be found at Attachment I.

Department Employees Paid for Hours Not Worked and Expenses Not Incurred

(Page 5)

Finding:

Mr. Samuel Joseph Sarvis, IV, and Mr. Michael L. Coco, former employees, submitted false time sheets and expense reimbursement requests and were paid \$1,779 and \$508, respectively, that they were not entitled to receive. Each of these time sheets and reimbursement requests were improperly approved by Mr. Craig S. Johnson, Deputy Commissioner of Management and Finance.

Recommendation:

We recommend that the Department of Insurance implement procedures that will ensure that employees work the hours that they report and incur the expenses for which they are reimbursed. This policy should instruct supervisors as to their responsibility to ensure that time sheets and expense reimbursement requests are properly prepared and accurate and that all payments to employees are appropriate and correct.

In addition, we recommend that the District Attorney for the Nineteenth Judicial District of Louisiana review this information and take appropriate legal action regarding possible violations of state laws, to include seeking restitution.

Management's Response:

Management states that when problems were pointed out to the department, corrective action was taken. With respect to Mr. Sarvis, action was taken that same day and Mr. Sarvis has since resigned. Furthermore, in regard to Mr. Coco, he had resigned routinely before any concerns were raised about him.

Employee Paid \$20,110 Though He Was Seldom at Work

(Page 11)

Finding: Mr. Fess Irvin, former employee, was paid \$20,110 for 1,120 hours; however, his supervisors and co-workers stated that he was seldom at work.

Recommendation: As with the previous finding, we recommend that the department implement procedures that will ensure that employees actually work the hours for which they are compensated.

In addition, we recommend that the District Attorney for the Nineteenth Judicial District of Louisiana review this information and take appropriate legal action regarding possible violations of state laws, to include seeking restitution.

Management's Response: Management states that Mr. Irvin was terminated for abandoning his position.

Deputy Commissioner Filed False Expense Reimbursement Requests Amounting to \$11,247

(Page 13)

Finding: From July 1, 1998, through September 30, 2000, Mr. Richard Chambers, Deputy Commissioner of Minority Affairs, filed 209 false expense reimbursement requests for 40,169 miles for which he was paid \$11,247. Mr. Chambers stated that he did not actually make the reported trips.

Recommendation: We recommend that the department implement procedures that ensure employee expense reimbursement requests are accurately prepared and adequately reviewed before being approved for payment. In addition, the department should ensure that its employees are aware of the provisions of the state travel regulations. We also recommend that the District Attorney for the Nineteenth Judicial District of Louisiana review this information and take appropriate legal action regarding possible violations of state laws, to include seeking restitution.

Management's Response: Management states that with regard to Mr. Chambers, difficulties with his travel reimbursement emanated from a communication problem, rather than a willful attempt at receiving excess payment.

Background and Methodology

The Louisiana Department of Insurance was created in accordance with Title 36, Chapter 17 of the Louisiana Revised Statutes of 1950, as a part of the executive branch of government. The department is responsible for supervision and regulation of insurance companies doing business in the state to ensure competitive and available insurance that responsibly serves the insurance needs of Louisiana residents. The department is under the direction of the Commissioner of Insurance who represents the public interest and is responsible to the legislature and the public.

During the performance of an annual audit, the Financial and Compliance Audit Division of the Office of the Legislative Auditor noted certain transactions and circumstances that appeared to be improper. This information was provided to the Investigative Audit Division and this investigative audit was performed to determine the propriety of these transactions and circumstances.

The procedures performed during this investigative audit consisted of (1) interviewing employees and officials of the department; (2) interviewing other persons as appropriate; (3) examining selected records of the department; (4) performing observations and analytical tests; and (5) reviewing applicable state laws and regulations.

The result of our investigative audit is the findings and recommendations herein.

Findings and Recommendations

DEPARTMENT EMPLOYEES PAID FOR HOURS NOT WORKED AND EXPENSES NOT INCURRED

Mr. Samuel Joseph Sarvis, IV, and Mr. Michael L. Coco, former employees, submitted false time sheets and expense reimbursement requests and were paid \$1,779 and \$508, respectively, that they were not entitled to receive. Each of these time sheets and reimbursement requests were improperly approved by Mr. Craig S. Johnson, Deputy Commissioner of Management and Finance.

Mr. Sarvis was employed by the department from September 29, 1998, through September 15, 2000. Mr. Coco was employed by the department from April 17, 2000, until he resigned effective October 9, 2000. Both served the department in its Minority Venture Group. Mr. Johnson served as the department's Deputy Commissioner of Management and Finance from May 25, 1998, and has resigned effective March 4, 2001. Though Mr. Johnson did not directly supervise Mr. Sarvis and Mr. Coco, he routinely approved their time sheets and expense reimbursement requests.

Samuel Joseph Sarvis, IV

Mr. Sarvis was employed by the department from September 1998 until he resigned, subsequent to the beginning of our investigation, during September 2000. During his employment, Mr. Sarvis submitted false time sheets and expense reimbursement requests, was paid \$1,619 for 86.5 hours that he did not work, and was reimbursed at least \$160 for expenses that he did not incur. The hours for which Mr. Sarvis was paid but did not work included time:

- (1) reported as worked though he was actually in New York;
- (2) when he was observed, by investigative auditors, performing personal business;
- (3) when he was performing as a cast member of a play; and
- (4) while he was attending a class at Louisiana State University.

In addition, records obtained from a fitness center where Mr. Sarvis maintained a membership indicated that he was at the fitness center on 52 occasions when his time sheet stated that he was working. Also, Mr. Sarvis was granted leave to attend Louisiana State University on a full-time basis. Furthermore, it appears that Mr. Sarvis was assigned duties for which he was not qualified.

Trip to New York

Though his time sheet and expense reimbursement request reflected that he was working for the department, in August 2000, Mr. Sarvis traveled to New York for personal

business. According to a Continental Airlines manifest, Mr. Sarvis departed from the New Orleans Airport for New York, New York, on Monday, August 7, 2000, at 1:30 p.m. and returned on Saturday, August 12, 2000. Mr. Sarvis signed and submitted a time sheet for the period August 7, 2000, through August 11, 2000, certifying that he worked from 7:00 a.m. until 3:30 p.m. on August 7, 8, 9, and 10, 2000. Also, he certified that he worked 1 hour, 5.5 hours, and 4.5 hours of overtime on August 7, 8, and 9, respectively. Mr. Sarvis submitted a leave slip certifying that he was sick on August 11, 2000. In addition, Mr. Sarvis submitted an expense reimbursement request certifying that he drove to Bastrop, Louisiana, on August 8, 2000, leaving at 7:00 a.m. and returning to Baton Rouge at 9:00 p.m. after driving 530 miles on department business. Mr. Sarvis' time sheet and expense reimbursement request were approved by Mr. Johnson, thereby causing Mr. Sarvis to be paid \$746 in wages, for 35.5 hours, and \$160 in expense reimbursements to which he was not entitled. In addition, Mr. Sarvis earned 11 hours of compensatory time for overtime hours that he did not work.

Mr. Sarvis acknowledged that he did go to New York, but stated that he thought that he left on a Thursday or Friday and returned on a Sunday. Mr. Johnson stated that although he approved Mr. Sarvis' time sheet, leave request, compensatory hours, and expense reimbursement request, he would have had no way of knowing that any of the reports were false. It should be noted that during the time period covered by this time and expense report, Mr. Sarvis and Mr. Johnson were living in the same home.

Observations of Investigative Auditors

Mr. Sarvis was compensated for hours when he was observed performing personal business. Investigative auditors observed Mr. Sarvis' activities on August 17, 18, and 31, 2000. During these three days, Mr. Sarvis was observed conducting personal business, visiting a fitness center, and driving toward Marksville, Louisiana, at times that, according to his time sheet, he was working for the department. Mr. Johnson approved Mr. Sarvis' time sheet, thereby causing him to be paid \$305, for 14.5 hours, and earning 5 hours of compensatory time for hours that he did not work.

Cast Member of a Play

Mr. Sarvis was paid for eight hours of sick leave when he was actually performing as a cast member of a play. Mr. Sarvis was a cast member in a performance on August 25, 26, and 27, 2000, in Marksville, Louisiana. Mr. Sarvis submitted a time sheet claiming eight hours of sick leave on Friday, August 25, 2000. Mr. Sarvis stated that he used eight hours of sick leave on August 25 even though he was not sick. Department policy prohibits the use of sick leave for purposes other than illness. Mr. Sarvis submitted this time sheet and leave request to Mr. Johnson who approved the time sheet, thereby causing Mr. Sarvis to receive \$168, for 8 hours, that he was not entitled to.

Class at Louisiana State University

Mr. Sarvis also claimed and was paid for time when he attended a class at Louisiana State University. From May 15, 1999, through May 19, 1999, Mr. Sarvis was enrolled in a class at Louisiana State University that met from 8:00 a.m. until 5:00 p.m. each day. Mr. Sarvis stated that he did not miss any of the classes in that session, yet his time sheet indicates that he worked from 7:00 a.m. until 6:30 p.m. on May 17, 18, and 19, 1999. Mr. Sarvis submitted his time sheet to Mr. Johnson who approved the false time sheet causing Mr. Sarvis to be paid \$400 for 24 hours and earn 4.5 hours of compensatory time that he did not work.

Spectrum Fitness Center

Mr. Sarvis also reported time on his time sheets as worked and received expense reimbursements for out-of-town travel when records indicate that he was present at a Baton Rouge fitness center. On 52 occasions, during a nine-month period, entry logs of the Spectrum Fitness Center indicate that Mr. Sarvis was at the fitness center at times when his time sheets certify that he was at work.

In addition, Mr. Sarvis submitted an expense reimbursement request claiming that he traveled from Baton Rouge to the Town of Vivian (approximately 300 miles one way) on September 7, 2000, from 7:00 a.m. to 11:15 a.m. and returning to Baton Rouge from 5:30 p.m. to 9:30 p.m. However, entry logs of the Spectrum Fitness Center indicate that Mr. Sarvis was at the fitness center in Baton Rouge at 11:12 a.m. and 7:30 p.m. on this day. For that day, Mr. Sarvis submitted an expense reimbursement request claiming 617 miles and two meals. This reimbursement request was approved and a check was prepared totaling \$192.76. However, this check was voided before being released.

Attending Louisiana State University

Mr. Sarvis was granted leave to attend Louisiana State University on a full-time basis during normal work hours. On December 30, 1999, Mr. Sarvis received an unclassified appointment as an Administrative Specialist in the Receivership Division. Our investigation revealed that Mr. Sarvis does not appear to have performed any work for the Receivership Division, rather he actually worked in the Minority Venture Group. At the time of the appointment, Mr. Sarvis was a full-time student pursuing a degree at Louisiana State University in Baton Rouge. His salary was set at \$42,000 per year and was raised to \$43,680 effective June 26, 2000. Mr. Sarvis was granted educational leave in the spring of 2000 not to exceed 240 hours, which resulted in his receiving a full-time salary while pursuing his education as a full-time student. During the spring of 2000, Mr. Sarvis' class schedule required that he attend 15 hours of classes per week during his normal work hours and 6 hours per week at night.

Mr. Johnson stated that he thought Mr. Sarvis was going to become a certified internal auditor and, as a result, the department would benefit by subsidizing his education. However, Mr. Sarvis did not take any business or auditing related courses in the spring

and summer sessions of 2000. In August 2000, Mr. Sarvis was awarded a bachelor of general studies degree from the College of Arts and Sciences with a major in general studies and minors in music, sociology, and speech communication.

Assigned Duties for Which He Was Not Qualified

In addition, it appears that Mr. Sarvis was assigned to perform work for which he was not qualified. This was previously reported to the department; however, Mr. Johnson misled the Legislative Auditor in his response.

A weakness reported by the Legislative Auditor in the department's annual audit for fiscal year 2000 stated, in part:

... A risk assessment was prepared without the direct involvement of the director of internal audit. The responsibility for preparation was assigned by the department's Chief of Staff, Craig Johnson, to an employee Mr. Sarvis who was not an internal auditor and did not have the necessary educational background to participate in the risk assessment process. The employee had completed only nine semester-hours of accounting and did not possess a college degree. His educational background was in music, sociology, and speech ...

Mr. Johnson responded to the finding in part as follows:

... When the risk assessment project began in the spring of 1999, Joseph Sarvis was an Internal Audit Intern working with Nancy Vogt. At the time he was enrolled in internal auditing courses at LSU. This gave him a unique perspective and access to resources, which were of great assistance in this endeavor. He worked closely with Dr. Glenn Sumners, DBA, CPA, CFE and was able to use him as an additional source of information in the planning and execution of the risk assessment project. While the employee lacked a degree in accounting, his working knowledge of the Department and its workings made him qualified to compile data necessary and evaluate risk ...

However, Mr. Sarvis did not work closely with Dr. Sumners. Dr. Glenn Sumners, a professor at Louisiana State University, stated that Mr. Sarvis did not consult with him regarding the department and that he may have spoken to Mr. Sarvis for three minutes after class. Dr. Sumners stated that Mr. Sarvis would not have had the educational background or enough experience to allow him to adequately prepare the risk assessment for the department. In addition, Dr. Sumners stated that the risk assessment, shown to him by Legislative Auditors, for the department was very close to the project, "General Hospital" that was prepared in his class.

Mr. Johnson stated that Mr. Sarvis has been "a valuable system contributor," and that Mr. Sarvis is "an invaluable employee who has made outstanding contributions to the department."

Michael Coco

Mr. Coco was employed by the department and worked in the Minority Venture Group from April 17, 2000, until he resigned, subsequent to the beginning of our investigation, effective October 9, 2000. Mr. Coco traveled throughout the state gathering information for the Minority Venture Group. Mr. Coco had a restricted appointment and was paid \$12 per hour. During his employment, Mr. Coco falsified his time card, submitted a false expense reimbursement request, was paid \$360 in salary for hours that he did not work, and received \$148 for expenses he did not incur.

Trip to New York

On one occasion, Mr. Coco reported hours on his time card when he was actually on personal business in New York. According to the Continental Airlines manifest, Mr. Coco departed from the New Orleans Airport for New York on Monday, August 7, 2000, at 1:30 p.m. and returned on Saturday, August 12, 2000. Mr. Coco's time card for August 7, 2000, shows a machine punch at 8:12 a.m. and a handwritten entry of 4:45 p.m. For August 8 and 9, 2000, handwritten entries indicate start times of 7:00 a.m. on both days and ending times of 9:00 p.m. and 8:00 p.m., respectively. Mr. Coco did not claim any hours worked on August 10 and August 11. Mr. Coco initialed the handwritten entries for August 7, 8, and 9, 2000, and signed the time card. Thus, Mr. Coco claimed to work 30 hours that he did not work. Mr. Johnson approved the time sheet, thereby causing Mr. Coco to be paid \$360 for hours he did not work.

Mr. Coco also submitted a reimbursement request for travel reportedly taken on August 9, 2000, one of the days that he was in New York. According to the reimbursement request, he departed Baton Rouge at 7:00 a.m. on August 9, 2000, arrived in Mansfield, Louisiana, at 12:15 p.m., and returned to Baton Rouge at 8:00 p.m. He claimed that he traveled 484 miles and requested reimbursement for one meal. Mr. Johnson approved the requested reimbursement, thereby causing Mr. Coco to be paid \$148 for a trip that he did not make.

On September 14, 2000, Mr. Coco stated that he remembered traveling to Eros, Louisiana, and several other small towns with Mr. Sarvis on September 8, 2000. However, Mr. Coco could not remember with whom he had spoken nor the nature of the discussions.

Conclusion

Mr. Sarvis submitted false time sheets and expense reimbursement requests and received at least \$1,619 in wages and \$160 in expense reimbursements to which he was not entitled. Mr. Coco submitted a false time card and expense reimbursement request and received at least \$360 in wages and \$148 in expense reimbursements to which he was not entitled. As a result of their actions, Mr. Sarvis and Mr. Coco may have violated one or more of the following Louisiana laws:

- R.S. 14:67, "Theft"
- R.S. 14:133, "Filing or Maintaining False Public Records"
- R.S. 14:134, "Malfeasance in Office"
- R.S. 14:138, "Public Payroll Fraud"

By approving false time sheets and expense reimbursement requests, Mr. Johnson failed to meet his responsibility under the Louisiana Administrative Code Policy and Procedure Memoranda Number 7 (PPM 7), which requires that no approval for payment be given without sufficient evidence that such services were received. Furthermore, PPM 7 states that an employee will be held accountable for his acts of approval. In addition, Mr. Johnson may have violated the provisions of one or more of the following Louisiana laws:

- R.S. 14:26, "Conspiracy"
- R.S. 14:134, "Malfeasance in Office"

Though the actions of the individuals listed in this report appear to substantiate the elements of the laws listed above, the actual determination as to whether individuals are subject to formal charge is at the discretion and determination of the district attorney.

We recommend that the Department of Insurance implement procedures that will ensure that employees work the hours that they report and incur the expenses for which they are reimbursed. This policy should instruct supervisors as to their responsibility to ensure that time sheets and expense reimbursement requests are properly prepared and accurate and that all payments to employees are appropriate and correct.

In addition, we recommend that the District Attorney for the Nineteenth Judicial District of Louisiana review this information and take appropriate legal action regarding possible violations of state laws, to include seeking restitution.

EMPLOYEE PAID \$20,110 THOUGH HE WAS SELDOM AT WORK

Mr. Fess Irvin, former employee, was paid \$20,110 for 1,120 hours; however, his supervisors and co-workers stated that he was seldom at work.

Mr. Irvin was employed by the department from August 16, 1999, through March 5, 2000, through temporary and seasonal appointments. On August 16, 1999, the department hired Mr. Irvin through a 90-day restricted appointment as an Executive Staff Officer assigned to the department's Licensing Division. After the expiration of the restricted appointment, Mr. Irvin received a 90-day multiple restricted appointment to the same position. At the expiration of the multiple restricted appointment, Mr. Irvin was given an unclassified seasonal appointment as a technician in the department's Licensing Division. Internal memorandums indicate that Mr. Irvin spoke directly to Commissioner James "Jim" Brown about extending his employment.

Throughout his employment, Mr. Irvin was assigned to the Licensing and Compliance Division. During that time, four supervisors signed approving his time sheets. They were Mr. Lester Dunlap, former Assistant Commissioner of Licensing and Compliance; Ms. Mary Beth Roussel, Assistant Director of Licensing; Ms. Terri Taylor, Assistant Commissioner of Licensing and Compliance; and Mr. Gillis Hill, Chief Deputy Commissioner under the Office of the Commissioner. These four supervisors signed time sheets approving Mr. Irvin's hours although they did not have knowledge that Mr. Irvin worked the hours reported on his time sheets.

Ms. Taylor and four other employees stated that Mr. Irvin was seldom at work in the Licensing Division. Ms. Taylor further stated that when Mr. Irvin was originally employed, Commissioner Brown told her that Mr. Irvin would be coming to work in her area and that he (Mr. Irvin) would also be doing special projects for Commissioner Brown. She stated that she assumed that Mr. Irvin was doing special projects for Commissioner Brown when he was not working in the Licensing Division.

Mr. Lester Dunlap, former Assistant Commissioner of Licensing and Compliance, stated that he could not recall Mr. Irvin working in the Licensing Division during the period August 1999 through January 2000. He also stated that he did not recall Mr. Irvin having an assigned workstation in Licensing. Mr. Dunlap further stated that he did not receive a call from Commissioner Brown with any instructions concerning Mr. Irvin's employment. According to Mr. Dunlap, when he signed Mr. Irvin's time sheets, he was relying on the timekeeper for assurance that the hours reported were actually worked.

Ms. Patricia Brock, Mr. Irvin's timekeeper, stated that she had a difficult time getting Mr. Irvin to sign his time sheets, because he frequently was not around when time sheets were due. According to Ms. Brock, on at least nine occasions, she forwarded time sheets to the Payroll Division without Mr. Irvin's signature. According to Ms. Darlene Redd, Payroll Supervisor, on occasions when she attempted to locate Mr. Irvin to sign the time sheets, Ms. Beryl Brumfield, an employee in the Licensing Division, telephoned Mr. Irvin who came to the office to sign his time sheets.

Mr. Hill stated that he heard Mr. Irvin was not signing his time sheets. According to Mr. Hill, he asked Mr. Craig Johnson, Deputy Commissioner of Management and Finance, what duties Mr. Irvin was assigned to perform and whether the department needed to keep him. Mr. Hill stated that Mr. Johnson told him that if Mr. Irvin was not signing his time sheets that Mr. Irvin should be terminated. Mr. Hill stated that he notified the personnel office to terminate Mr. Irvin. Mr. Hill also stated that he never talked to Mr. Irvin and did not try to determine whether or not Mr. Irvin actually did any work. Two department employees stated that they saw Mr. Hill write in Mr. Irvin's hours on his last two time sheets dated February 20, 2000, and March 5, 2000. Mr. Hill denied preparing the time sheets but acknowledged that he did approve them.

Mr. Irvin stated that he worked all of his hours in the Licensing division and never performed any special projects for Commissioner Brown or anyone else. Commissioner Brown confirmed that Mr. Irvin never performed special projects for him and did not recall informing Ms. Taylor that special projects would be part of Mr. Irvin's duties.

By causing payment of public funds for work not performed, the four supervisors and Mr. Irvin may have violated one or more of the following Louisiana laws:

- R.S. 14:133, "Filing or Maintaining False Public Records"
- R.S. 14:134, "Malfeasance in Office"
- R.S. 14:138, "Public Payroll Fraud"

Though the actions of the individual listed in this report appear to substantiate the elements of the laws listed above, the actual determination as to whether any individual is subject to formal charge is at the discretion and determination of the district attorney.

As with the previous finding, we recommend that the department implement procedures that will ensure that employees actually work the hours for which they are compensated.

In addition, we recommend that the District Attorney for the Nineteenth Judicial District of Louisiana review this information and take appropriate legal action regarding possible violations of state laws, to include seeking restitution.

**DEPUTY COMMISSIONER FILED
FALSE EXPENSE REIMBURSEMENT
REQUESTS AMOUNTING TO \$11,247**

From July 1, 1998, through September 30, 2000, Mr. Richard Chambers, Deputy Commissioner of Minority Affairs, filed 209 false expense reimbursement requests for 40,169 miles for which he was paid \$11,247. Mr. Chambers stated that he did not actually make the reported trips.

Mr. Richard Chambers has been the Deputy Commissioner for Minority Affairs since September 15, 1988. Mr. Chambers is domiciled, for employment purposes, in Baton Rouge but maintains his residence in New Orleans. From July 1, 1998, through October 1, 2000, Mr. Chambers submitted 209 expense reports claiming 40,169 miles for travel from Baton Rouge to New Orleans that resulted in his being paid \$11,247. According to Mr. Chambers, he usually works out of his home in New Orleans on Mondays and Fridays and commutes to Baton Rouge on the other days. Though Mr. Chambers originates and ends the days he works in New Orleans from his New Orleans residence, his travel reimbursement requests indicate that his travel originated and ended in Baton Rouge. The result is that the mileage, as claimed on his reimbursement requests, is false.

The odometer readings and times traveled reflected on his expense reports are not actual readings. Mr. Chambers stated that he creates mileage readings and gives those to his secretary who prepares his expense reimbursement requests. Mr. Chambers stated that he just signs what she prepares and that he did not actually make the trips recorded on his expense reimbursement requests. On each report, Mr. Chambers signed the following statement:

I certify that this expense account is just and true in all respects; that the distances shown were actually and necessarily traveled on the dates specified on official business only; that the expenses charged were incurred on official business of the State and none of the expenses have been paid by the State; and the full amount is justly due.

Mr. Chambers stated that Ms. Brenda St. Romain, former Assistant Commissioner of Management and Finance, was aware of his travel arrangement. However, Ms. St. Romain stated that she was unaware that Mr. Chambers was claiming mileage to and from New Orleans on days that he did not actually travel. She said that she would never have approved any arrangement that paid Mr. Chambers for travel that he did not incur.

Mr. Chambers also stated that Commissioner Brown was aware of and agreed with his travel arrangement. Commissioner Brown stated that he never directed that Mr. Chambers get any special treatment.

By submitting false travel claims, Mr. Chambers may have violated the provisions of Louisiana State Division of Administration Policy and Procedure Memorandum 49 (State Travel Regulations) and the provisions of one or more of the following Louisiana laws:

- R.S. 14:133, "Filing or Maintaining False Public Records"
- R.S. 14:134, "Malfeasance in Office"

Though the actions of the individual listed in this report appear to substantiate the elements of the laws listed above, the actual determination as to whether an individual is subject to formal charge is at the discretion and determination of the district attorney.

We recommend that the department implement procedures that ensure employee expense reimbursement requests are accurately prepared and adequately reviewed before being approved for payment. In addition, the department should ensure that its employees are aware of the provisions of the state travel regulations. We also recommend that the District Attorney for the Nineteenth Judicial District of Louisiana review this information and take appropriate legal action regarding possible violations of state laws, to include seeking restitution.

Attachment I

Management's Response



**JAMES H. "JIM" BROWN
COMMISSIONER OF INSURANCE
STATE OF LOUISIANA**

P. O. Box 911
BATON ROUGE, LOUISIANA 70821-0911
TEL: (225) 342-5423
FAX: (225) 342-8622
[http:// wwwldi. la. state. la. us](http://wwwldi.la.state.la.us)

February 19, 2001

Dear Dr. Kyle:

You have issued findings concerning four employees of the Department of Insurance after conducting an inquiry, with the full cooperation of the administration of this department, into payroll and expense practices.

In the course of the conduct of this audit inquiry, the Department has made management changes while taking additional measures intended to help assure the accuracy of payroll and expense reimbursement reporting.

Heretofore during this transitional period, the administration of this Department has concentrated on efforts to ensure that the core responsibilities of this agency continue to be carried out efficiently and effectively, and that is the regulation of the insurance industry for solvency and market practices. We are satisfied that our efforts directed at our main mission, protecting the policyholders, continue to be successful.

However, this latest audit has caused us to focus more on internal controls, and although we have already made some changes, this will be an ongoing effort.

When problems were pointed out to the Department, we took corrective action.

When auditors from your office contacted Mr. Johnson and conveyed their concerns regarding Mr. Sarvis, action was taken that same day. Mr. Sarvis was immediately suspended without pay. He resigned that same day. All compensatory time and travel expense payments were frozen, and withheld from Mr. Sarvis. That amounts to more than \$5,000.

In regard to Mr. Coco, he had already resigned routinely before any concerns were raised about him.

In the case of Fess Irvin, action was taken by the Department, in advance of any action by the Legislative Auditor. Mr. Irvin failed to show up for work three days in a row, and failed to appear in person to sign a final time sheet, required for payroll purposes. He was terminated effective March 3, 2000 for abandoning his position. Subsequently, Mr. Irvin was contacted and said some of the questions which have been raised about his

employment emanated from confusion over when he had intended to quit his job and conveying that information to his supervisor.

With regard to Mr. Chambers, when concerns were raised in this instance, the accounting section of the Department of Insurance contacted the Division of Administration's Travel Office to determine how his travel mileage should be calculated. Since Mr. Chambers commutes to Baton Rouge from his home in LaPlace, and since he sometimes travels on business from his home rather than embarking from his Baton Rouge employment domicile, questions were raised about the correctness of his travel reimbursement.

It was the understanding of the Department that Mr. Chambers' travel reimbursement was calculated in a manner arrived at by our accounting department. It was the impression of the Department that if there were any difficulties with Mr. Chambers' travel reimbursement, the problems emanated from a communication problem, rather than a willful attempt at receiving excess payment.

We have the responsibility to see that our 272 employees handle the public's business properly and efficiently, and we will strive to do that. We have taken corrective action where we see problems. Whether any of these matters warrant criminal action, or are the result of misunderstanding and errors, is a question to be answered by the District Attorney's office.

With best wishes,



J. Robert Wooley
Acting Commissioner of Insurance

Attachment II

Legal Provisions

Legal Provisions

The following legal citations are referred to in the Findings and Recommendations section of this report:

R.S. 14:26 provides, in part, that criminal conspiracy is the agreement or combination of two or more persons for the specific purpose of committing any crime; provided that an agreement or combination to commit a crime shall not amount to a criminal conspiracy unless, in addition to such an agreement or combination, one or more of such parties does an act in furtherance of the object of the agreement or combination.

R.S. 14:67 provides, in part, that theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations.

R.S. 14:133 provides, in part, that filing false records is the filing or depositing, with knowledge of its falsity, of any forged document for record in any public office or with any public officer or any false statement or false representation of a material fact made or caused to be made on any document required to be submitted or maintained by any state law, where such false statement or false representation is made with the intent to violate such law, regulation, or rule.

R.S. 14:134 provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

R.S. 14:138 provides, in part, that payroll fraud is committed when any public officer or public employee shall carry, cause to be carried, or permit to be carried, directly or indirectly, upon the employment list or payroll of his office, the name of any person as employee, or shall pay any employee, with knowledge that such employee is receiving payment or compensation for services not actually rendered by said employee or for services grossly inadequate for such payment or compensation.

Appendix B

Management's Response



OFFICE OF THE COMMISSIONER OF INSURANCE
STATE OF LOUISIANA

02 SEP -5 PM 4:30

P.O. Box 911
BATON ROUGE, LOUISIANA 70821-0911
TEL: (225) 342-5423
FAX: (225) 342-8622
<http://www.lci.state.la.us>

Daniel G. Kyle, Ph.D., CPA, CFE
Office of the Legislative Auditor
State of Louisiana
1600 North Third Street
Baton Rouge, LA 70802

September 5, 2002

Dear Dr. Kyle:

This letter shall serve as the Department of Insurance's response to the preliminary draft of your recent Investigative Audit Report we received on August 22, 2002.

As I am sure you are aware, the Department has been very accommodating to your staff throughout this entire audit process. As required by law, we have made available to you all of the documents and records you have requested. But even if the law did not call for our cooperation, you could still expect a very open and honest dialogue with all of our staff.

During this time of transition at the Department of Insurance, we are very aware of the fact that we are under a microscope, of sorts, in the public eye. Without an elected public official at the helm on a day-to-day basis, we have become an easy target for criticism, despite the fact that we are just as determined now, as ever, to fulfill this agency's mission to enforce the insurance laws and regulations of Louisiana impartially, honestly and expeditiously.

I believe communication is essential for any workplace to successfully accomplish their mission, which is why as acting Commissioner I established an "open door" policy. I have repeatedly told all of the employees of this Department that I am always available to talk if they have any concerns or complaints that need to be addressed.

In your recent investigative audit, you levy allegations that four Department of Insurance employees submitted time sheets containing false information. You further added that you first received these allegations from an anonymous source on March 12, 2001, but did not investigate these claims until approximately one year later.

I have never considered this Department's relationship with the Office of the Legislative Auditor to be adversarial. I believe that both you and I share the common goal of working toward the betterment of Louisiana. However, I do not feel your mission to ensure the Department's compliance with the law must involve the covert monitoring of my employees. Had I known of your concerns at the onset, I would have addressed them in a timely manner and willingly worked hand-in-hand with you to ensure the continued adherence of the Department's policies.

The Department of Insurance takes the role of the Legislative Auditor seriously, as we spent \$147,248.00 in the 2001-2002 fiscal year as part of our ongoing financial obligation to your office. We appreciate the job that you must do as the state's auditor, but should any future allegations surface, we would ask that you consider sharing an open dialogue with us early on so that we may take prompt disciplinary action, if necessary.

In regard to the allegations made in your recent report, once the Department received your audit findings, we took immediate action.

Upon meeting with your staff, Mr. Barry Karns submitted a leave slip for the hours he is accused of falsely claiming he worked. The nature of Mr. Karns' job has required him for many years to work nights and weekends and to be available by cell phone around the clock. While we doubt Mr. Karns fills out compensatory time for all of the hours he actually puts in before and after work (See Exhibit 1), he nonetheless failed to follow the Department's requirements for properly filling out time and attendance forms. Mr. Karns will be suspended from work without pay for a period of two weeks, or 80 hours, at a cost to him of \$3,268.80.

In Mr. John Fontenot's situation, it appears he misunderstood the time and attendance policies of this Department (See Exhibit 2). Any time Mr. Fontenot missed less than one hour of work, he would simply make up the time at the end of the day as opposed to filling out a leave slip, so his time at work each day equaled eight hours. As part of the Department's effort to ensure compliance with the leave policies in place, Mr. Fontenot's supervisor now requires the entire Legal staff to seek prior permission before taking any leave and to present, in person, any after-the-fact annual or sick leave requests.

Because Mr. Fontenot allegedly failed to follow the Department's regulations regarding time and attendance, he will be required to submit a leave slip for the nine hours he is accused of being paid for that he did not work. In addition, Mr. Fontenot will be suspended from work without pay for a period of two weeks, or 80 hours, at a cost to him of \$1,953.60 in salary.

Following the death of her husband, Ms. Deborah Poirrier was on leave without pay for much of the last year and a half. During this period of time, Ms. Poirrier was verbally counseled by her supervisor due to her absences from work. Ms. Poirrier claims her alleged failure to submit four hours of leave during a time when she was mostly on leave without pay was inadvertent (See Exhibit 3). The Department will require Ms. Poirrier to submit a leave slip for the four-hour period of time in question. Furthermore, she will be suspended from work without pay for a period of two weeks, or 80 hours, at a cost to her of \$755.20 in salary.

In the case of Mr. Michael Boutwell, we do not feel his alleged failure to submit three-and-a-half hours of leave slips is a deliberate attempt at payroll fraud (See Exhibit 4). Mr. Boutwell admits he had a problem with tardiness in the past, for which he was counseled and reprimanded by his supervisor. On several occasions, his supervisor required that he take leave without pay when he was late to work. Upon review of his leave slips, Mr. Boutwell may appear to be a good record keeper. But a check of his

records reflects an absence of any compensatory time earned, for which he would be entitled on numerous occasions.

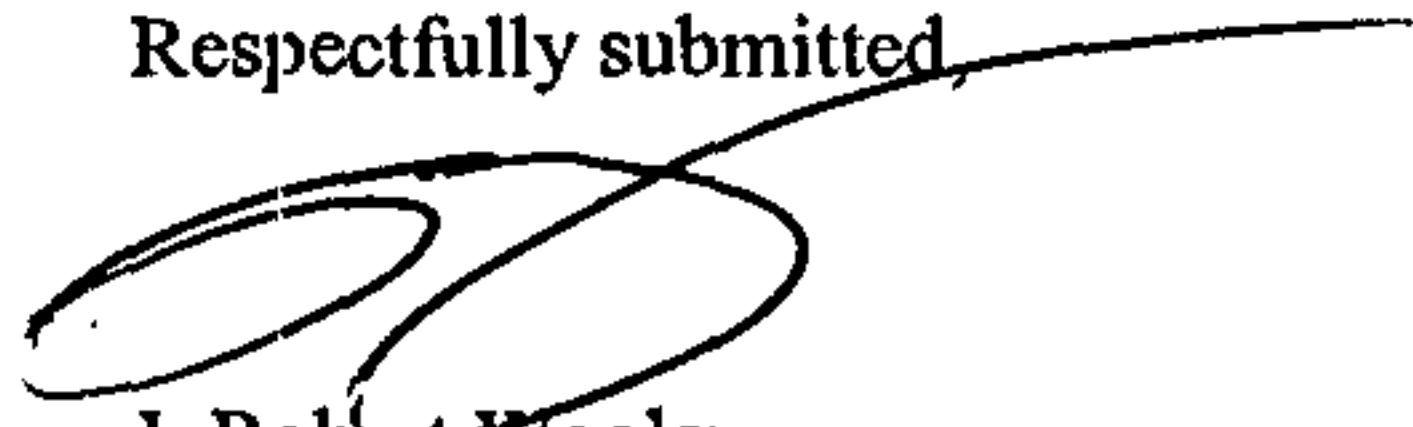
We believe Mr. Boutwell to be guilty of poor record keeping and nothing more. However, in accepting your allegations as fact, we are to assume that Mr. Boutwell did not follow the Department of Insurance's guidelines for filling out his leave slips in a proper manner. Therefore, Mr. Boutwell will be required to submit three-and-a-half hours of leave and he will be suspended from work without pay for a period of one week, or 40 hours, at a cost to him of \$695.20 in salary.

In response to a recommendation made by your staff following our 2001 regularly scheduled financial audit, the Department revised and re-issued Policy Memorandum Number 53 on February 1, 2002 to all employees (See Exhibit 5). The purpose of this memo was to establish a uniform policy regarding the operating procedures in obtaining the required signatures on the Department's original time and attendance records. The amended policy memorandum states: "A supervisor within a division's unit or chain of command will approve the time and attendance records and relative documentation. During the absence of such a supervisor, the Assistant Commissioner (or equivalent) or Deputy Commissioner will approve the Fixed Time Entry Sheets, and all Overtime Sheets." Basically this means the Department is making every effort to have an employee's direct supervisor sign off on his or her time sheets. A list of these signers has been provided to your staff.

In trying to ensure compliance with our time and attendance rules, on February 28, 2001, I conducted a mandatory meeting of all employees at the Department of Insurance regarding our leave policies. At that meeting I stressed the importance of filling out leave slips correctly and timely, as well as the need for every employee to follow the Department's regulations. On July 24, 2002, I issued a memorandum to all Department staff reiterating this message and attached copies of our revised policies regarding leave, as well as the collection of signatures on time and attendance records (See Exhibit 5).

I am proud of my service as acting Commissioner of the Louisiana Department of Insurance and have great faith in the staff that I inherited. The Department's mission statement concludes with the phrase, "It is our commitment to be the best insurance regulatory agency in the United States." As we continue on our path of achieving this end, please know that the approximately 300 employees of this agency strive to attain this goal by exercising the highest ethical and professional standards.

Respectfully submitted,



J. Robert Wooley
Acting Commissioner of Insurance

JRW/CMB/aww
attachments

EXHIBIT 1

RECEIVED
02 SEP -5 PM 4:30

Brown, Chad

From: Karns, Barry
Sent: Tuesday, September 03, 2002 10:59 AM
To: Brown, Chad
Cc: Hill, Gillis
Subject: FW: Your letter dated August 28, 2002

Dear Chad:

Regarding the above-referenced subject, please be advised of the following:

Since I have had a department cell phone for quite some time now, I am on call whenever needed. Frequently, I receive, and make calls after normal working hours or on days when I am on leave. I have never put in for K-time for these phone calls which have included Robert Wooley, Jim Donelon, Gillis Hill and others. Many times Gillis has called after hours to discuss the office.

Concerning K-time, I asked you to furnish me with K-time earned since January, which was e-mailed to me by Stacie Evans. I also got records for February-March, 2002 from Honeywell, Inc, the company with whom we have our building secure entry system. After entering the outside door with a key, you must enter your access code, or an alarm will go off and Honeywell will notify the police, and then you must use your key for the inner door. A number of times, I was the first one in the building and therefore had to use my code to get in. I found several instances on the Honeywell report where I arrived before normal working hours and the K-time did not show up on Stacie's report. I am sending you, separate from this e-mail, a copy of both the Honeywell report and the February-March excerpt from Stacie's report. The following days and hours appear on the Honeywell report and not on Stacie's report:

Wednesday, February 6, arrived 6:19 am=1 1/2 hrs.	K-time earned but not credited
Monday, February 11, arrived 7:33 am =1/2 hr.	" " " " "
Wednesday, February 13, arrived 6:38 am=1	" " " " "
Wednesday, February 27, arrived 6:41 am=1	" " " " "

Additionally, the Honeywell report shows that I entered the building several times during this time period, none of which show up on Stacie's report because I didn't claim the K-time hours earned. I will detail these individually, as follows:

On Wednesday, March 6, I took leave for the entire day but came to the building at 5:49 am to pick up items to read and review that day.

On Saturday, March 9, I arrived at the building at 6:23 am to pick up items to read and work on that day.

On Sunday, March 17, I arrived at the building at 3:41 pm to pick up items to read and work on that day.

On Saturday, March 30, I arrived at the building at 6:18 am, picked up some items, left, then returned at 7:30 am to pick up other items to read and work on that day.

I have always worked K-time hours since being at Receivership. Being involved in numerous litigated cases, it is not practical for me to try to read and absorb briefs, motions, and other pleadings which can be very voluminous, sometimes exceeding 100 pages, during normal working hours. For quite a while after being appointed, I came to this building early on Saturdays and Sundays and would work several hours at a time. I was advised that this may not be safe, and after several incidents close to where the building is located, I decided that I would simply come in on the weekends and pick up what I needed. There are other Saturdays and Sundays which I worked but did not come to the building to pick up items.

I also have many times worked at home before and after normal working hours, but have never put in for these hours. I have met many times with others in the Department and discussed solvency issues after hours and have never put in for these hours.

We have closed a number of estates since I have been here, and have collected millions of dollars in the process, which won't have to be collected from the taxpayers.

In summary, there have been many times I have worked on estate issues but have not claimed K-time.

EXHIBIT 2

Aug. 29, 2002
To: Chad Brown
From: John F. Tamm

On July 2nd, 2002, I was confronted by the Legislative Auditors on the Eighth floor. They asked to speak to me, so we went down to my office on the fifth floor.

They questioned me in reference to an "unspecified" complaint about the fifth floor, "where my name was mentioned". They stated that the complainant was anonymous.

They questioned me about leave policy and leave slips.

I responded as openly and honestly as I could.

Later I learned that they had not received authorization or permission to be in the building.

They also questioned me about a certain day that they "monitored" my comings & goings. I believe it was March 19th. I did not recall it specifically.

I was following the leave policy in effect at the time (by making up leave absence, less than one hour and putting in leave slips for

absence for more than one hour.)

I am currently following the leave policy put in place by Mr. Dorel. I have not taken any leave, sick or annual, without doing it in advance. I have not had to go up to Jim, since the policy was put in place.

For whatever reason, if I owe leave, I will gladly turn in a slip for the time.

Sincerely,

Jim Fontana

EXHIBIT 3

August 29, 2002

Mr. Chad M. Brown
Deputy Commissioner
Office of Management and Finance
P. O. Box 94214
Baton Rouge, LA 70804-9214

Dear Mr. Brown:

I am in receipt of your letter of August 28th in which it is alleged that I was paid for a total of four (4) hours not worked in February and/or March of this year. Due to the great length of time which has transpired since this alleged infraction, and the failure of the legislative auditors to provide the written documentation they promised, I am unable to respond specifically to the allegations.

To my knowledge, I have always turned in leave slips for all leave I have taken. During my recent difficulties, I was on Leave Without Pay, certainly a demonstration that I would have no intent to "cheat" the state for four (4) hours. Once my leave slips are approved by my supervisor and turned over to the time-keeper, I do not have control or knowledge of them. I was going through an extremely stressful period of my life at that time due to the sudden loss of my husband. Even if not so distracted, it would be difficult to catch an inaccuracy in the timesheet prepared by the time-keeper, as I have complete faith in the time-keeper.

I believe the proposed sanctions are excessive for a number of reasons:

1. The infractions, if any, were clearly inadvertent;
2. The nature of the alleged allegations (four (4) hours);
3. Lesser penalties were proposed for employees for the same type of infraction;
4. I am already at an extremely low pay scale and the proposed sanctions would result in financial hardship; and

5. The Division of Legal Services is currently understaffed and my absence would leave only one full time employee and create a hardship for the Division.

Once again, I have never tried to defraud the state of any unreported hours. All of my Leave Without Pay should prove that.

I feel as though I am just beginning to get myself back together and on my feet again since Jim's death, and the fact of being suspended for thirty (30) days from the Department and friends that I have come to know during my last ten (10) years is too overwhelming for me. I would hope that you, Acting Commissioner Wooley and Mr. Donelon take this into consideration.

Respectfully submitted,

A handwritten signature in cursive script that reads "Debbie Poirrier". The signature is fluid and elegant, with the first name "Debbie" and last name "Poirrier" clearly distinguishable.

Debbie Poirrier

EXHIBIT 4

August 29, 2002

Mr. Chad Brown
Deputy Commissioner of Management & Finance
Louisiana Department of Insurance
P.O. Box 94214
Baton Rouge, LA 70804-9214

Mr. Brown:

In response to your letter of August 28, 2002, I would like to begin by saying that the presentation of the findings of this audit (whether by design or by happenstance) has been done in such a way as to make it almost impossible for me to present any argument as to the facts of the findings.

It is very obvious from your letter to me that this report names me personally and makes specific allegations, indeed criminal allegations, against me. Therefore, I do not understand how it is that the Legislative Auditor is not bound, either by law or ethics, to provide me personally with a copy of this report for response prior to making it public.

In the initial "interview" with the auditors I was not advised of the specific days nor the specific hours in question. It was not until Thursday August 22 that I was advised of the specific days and this was done by Jim Donelon and not the Legislative Auditors. I have yet to be told the specific hours although in a conversation you did say that there was a total of 3.5 hours. I do not keep a minute-by-minute calendar of my workday. Indeed, I know of no one that keeps such a record and since e-mail messages are deleted from the system after less than ninety days, I have been left with very few resources to dispute any of the specific allegations made against me. For this reason I am forced to accept that the "facts" presented by the auditors are true and correct.

Let me unequivocally state that I have never intentionally filed false or misleading payroll information with this Department or any other entity. I have never intentionally failed to complete the proper forms required to be charged leave for times that I am not at work.

In none of my discussions with my supervisors or other authorities in the building have I received indication that there is a belief that my failure to file the proper leave slips was a deliberate attempt to commit fraud and I want to assure you that this was not the case.

I have experienced a problem in the past with tardiness. I admit this. This is a problem for which I have been counseled and that I have taken action to correct. However, by reviewing the leave slips that I have filed, you will find that I did make a habit of filing such slips and in several cases took leave without pay for that tardiness. If I were making

an attempt to defraud the State I would think that I would not have filed these slips on such a regular basis. Failure to file leave slips for the times in question was simply an honest mistake. I have accrued ample leave to cover the time in question and will, of course, gladly submit a form for leave, either with or without pay, for that time.

In regard to possible punishment for the infractions, in my opinion suspension for two weeks is drastic in relation to the nature of the offence. I have arrived at this conclusion based on two factors.

1) This violation is one of a mistake in failing to complete the proper paperwork and not one of any attempt, systematic or otherwise, to commit fraud.

2) Since I work overtime for which I do not claim compensatory leave, I do not believe it can be said that the State is "out" any time or compensation for the hours in question.

I believe that I have clearly stated my stance on the first issue above. In regard to the second issue, I offer the following;

In the time that I have been a supervisor with the Department of Insurance, it has been made very clear to me and I have accepted that the important thing is getting the work done. I have considered working overtime whenever the workload demanded it to be part of my job requirements and I have performed that overtime work without claiming compensatory leave for the time worked. This same philosophy applied to traveling for the Department on weekends and after hours. If it had to be done and getting it done meant that I had to stay late or work weekends, I considered that part of my job responsibilities.

I believe a review of my payroll sheets will show that I have not claimed compensatory leave in several years with one exception. That exception was necessitated by the fact that my entire staff was working overtime and I had to claim the overtime in order to show that a supervisor was present during the time that the staff was working. At the same time, a review of travel logs and keycard entry records will show that I have traveled on weekends and after hours and entered the building on weekends or after hours for which there is no corresponding compensatory leave claim.

In addition to the time actually spent in the building and on trips, I also wear a beeper supplied by the Department of Insurance and I am expected to respond to a message from Departmental personnel regardless of the time of day, the day of the week and whether or not I am on leave. I have also on occasions too numerous to count used my personal cell phone to make calls on Departmental business and have never sought nor expected reimbursement for that expense. Again, I considered it just part of my job.

I have examined copies of records that show my entry into the building on weekends several times in the period from January to June. Unfortunately the system is unable to log the amount of time that I was present in the building and I did not keep any recording of that time. However, considering that I live a 45-minute drive away from the office, I

find it highly unlikely that I would drive that distance just to enter the building for a minute or two. In addition, on May 12, 2002 (a Sunday) I traveled to Kansas City, MO for the Department leaving my house at 6:30 a.m. and arriving at my hotel at some point after 1:00 p.m. I cite these specific examples because they seem to be relevant to the period covered by the Legislative Auditor's "investigation".

In light of the above noted remarks, I believe that suspension of 2 weeks is far out of line with the infraction. The act for which I should be punished is that of (however unintentionally) not completing the proper forms for leave. While I am not in any way demeaning the seriousness of the offense, imposition of punishment that would result in a major financial hardship for me is not at all in line with the level of that offense.

While I understand the desire of the appointing authority to apply a punishment across the board for all individuals named in this audit, I believe that a review of the specifics of each individual case is in order and that a "one size fits all" punishment is neither appropriate nor fair in this case.

It is my belief that four major factors should be considered when examining possibilities for punishment.

- 1) The number of hours involved.
- 2) Whether or not the individual involved routinely works verifiable hours for which they have not claimed valid compensatory leave.
- 3) Whether or not any factors are present that may indicate an intent to defraud.
- 4) Whether or not available information indicates that the individual adequately performs his/her work duties.

I believe that I have already addressed the first three issues above so I would like to take a few minutes to examine the fourth factor.

Under my supervision, Company Licensing has made great strides toward meeting and even exceeding stated goals. As of the 2002-2003 fiscal year I requested that certain of our indicators be changed because of the fact that we were consistently exceeding the goals previously established.

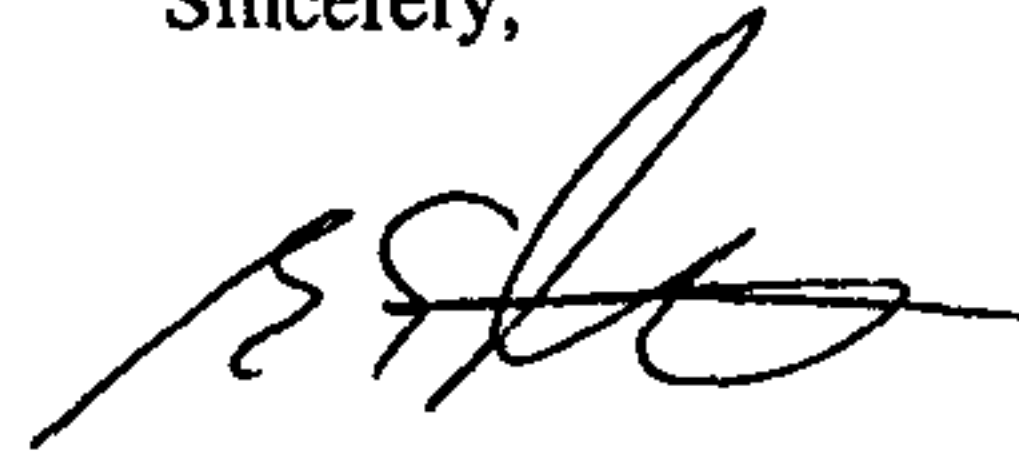
Company Licensing was one of the first areas of the Department to complete the process of imaging and using the imaging system for daily work. I have even personally become involved in helping to bring other areas on-line although these areas are not my direct responsibility.

I am on a day-to-day processing of mail and applications and the same can be said for the staff of Company Licensing. I have what I believe to be a fairly earned reputation as a "go getter" and a review of the statistical numbers will bear this out. In short, I get the job done.

While I understand that completing the proper forms for leave is part of my job, I believe that fact that the other areas of my job responsibility are being done and done effectively should be factored into the level of punishment that I should receive for the errors made.

In closing, I thank you for this opportunity to address the concerns and I hope that you and the other persons responsible for the decision will take my words to heart when making a decision on the punishment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Boutwell', with a stylized, cursive script.

Mike Boutwell

CC: Robert Wooley

EXHIBIT 5




OFFICE OF THE COMMISSIONER OF INSURANCE
STATE OF LOUISIANA

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MEMORANDUM

To: All Employees

From: J. Robert Wooley 
Acting Commissioner of Insurance

Date: July 24, 2002

Re: DOI Leave Policies

On February 28, 2001, I conducted a mandatory meeting for all Department staff regarding our leave policies. In that meeting, I stressed how important it is for each employee to follow these rules.

Attached you will find copies of the leave policies mandated by Civil Service and the Department of Insurance that affect all employees of our office. I urge everyone to once again read these policy memorandums to ensure compliance.

No employee is exempt from following these procedures. I continue to fill out my leave slips in a proper manner and I expect all DOI staff members to do the same. **There are no exceptions.**

Any employee needing more information should contact the Human Resources division at 3-5325.

Your cooperation is expected and appreciated.

JRW/CMB/aww

Attachments



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POLICY MEMORANDUM NUMBER 27 – REVISED

Civil Service Regulations – Annual Leave, Sick Leave, Compensatory Leave, Special Leave, Funeral Leave, Voting Leave, Voluntary Disaster Service Leave, and Military Leave

January 28, 2002

To: All Employees
From: Chad M. Brown 
Deputy Commissioner/Management & Finance

I. PURPOSE

The purpose of this Policy Memorandum is to establish a consistent and uniform policy regarding Annual Leave, Sick Leave, Compensatory Leave, Special Leave, and Funeral Leave for ALL employees within the Department of Insurance.

II. APPLICABILITY

The provisions of this policy are applicable to employees in both the classified and unclassified service within the Department of Insurance.

III. GUIDELINES

A. Annual Leave

1. Annual Leave is earned by eligible employees for each hour of duty under the provisions of Civil Service Rule 11.5, including the time an employee

is on paid leave or observing a paid holiday. Civil Service Rule 11.5 (d) 3 stipulates that leave is earned by an employee while on leave, but that credit for such leave may not be credited to the employee's account until the employee returns to duty (unless such leave was being used because of illness or injury which prohibited the employee's return to duty).

Civil Service Rule 11.18 (a, b) provides that:

"When an employee separates from the state classified service, all accrued annual leave except that for which he must be paid and all accrued sick leave shall be cancelled; however, if the employee is reemployed or transfers in probational or permanent status in the classified service or is reemployed in the unclassified service without a break in service of one or more working days, all of the employee's annual and sick leave shall be transferred to the hiring agency."

"Subject to the provisions of Rule 11.19, when a former employee is reemployed with permanent or probationary status within 5 years of his separation, all accrued annual and sick leave that was cancelled upon separation shall be recredited to him; provided, that the privileges of this Rule shall not extend to employees whose last separation was by dismissal or resignation to avoid dismissal."

2. Annual and Sick Leave accrual are computed on the same basis, with the rates of accrual based on 80 hours worked (one pay period).

Less than 3 years of State Service.....	3.6880 hours
3 years but less than 5 years of State Service.....	4.6080 hours
5 years but less than 10 years of State Service.....	5.5360 hours
10 years but less than 15 years of State Service.....	6.4560 hours
15 years or more of State Service (maximum rate)....	7.3840 hours

3. Annual Leave is leave with pay granted to the employee for the purpose of rehabilitation, restoration and maintenance of work efficiency, or transaction of personal business, or personal matters such as caring for a sick family member, or attending a funeral not covered by Funeral Leave. *Annual Leave may NOT be used in increments of less than one-half hour.*

- a. A leave slip requesting Annual Leave must be filled out by the employee and signed by the supervisor prior to the use of the leave.

- b. Civil Service Form SF-6, "Application for Leave" is to be signed by both the supervisor and the employee, and the time used recorded on the Time and Attendance Report.
 - c. Employees are urged to maintain an Annual Leave Balance so that in case of emergency they will not have to request Leave Without Pay.
 - d. Each employee, upon separation, shall be paid the value of his/her accrued Annual Leave in a lump sum not to exceed the value of 300 hours, computed on the basis of the employee's hourly rate of pay at the time of separation.
 - e. In certain instances it may not be possible to request Annual Leave prior to its use. In such instances, the employee must provide a leave slip as soon as he/she returns to work. The supervisor may sign the leave slip at his/her discretion. **There is no requirement that Annual Leave once requested be granted either before or after the fact.**
- 4. It is the supervisor's responsibility to closely monitor all leave.
 - 5. Employees should regard Annual Leave as a privilege and should exercise good judgment in its use.

B. Sick Leave

- 1. Sick Leave is earned at the same rate as Annual Leave by eligible employees. (Refer to Section A.2 of this Policy Memorandum for details).
 - a. Sick Leave is leave with pay granted to an employee who is suffering with a disability which prevents the employee from performing his/her duties and responsibilities or who requires medical, dental, or optical consultation or treatment. *Maternity Leave is addressed in Department of Insurance Policy Memorandum number 28. Family Medical Leave is addressed in Department of Insurance Policy Memorandum number 39.*
 - i. In accordance with Civil Service Rule 11.14, "which allows the appointing authority to require a doctor's certificate or other acceptable proof that an employee was ill and/or injured and therefore unable to report to work", employees are directed to provide a doctor's certificate upon return from an absence of five consecutive days for illness or injury.

- ii. Sick Leave used before or after holidays or paydays as a regular pattern without proper justification may warrant investigation by the appointing authority.
 - iii. An employee who is ill or injured and cannot report to work due to a disability must call his or her supervisor (or the supervisor's designated second) before 8:30 a.m. to report that he/she will not be reporting to work that day. The employee must speak to an employee of the Department to inform them of his/her absence for the day. If the employee's supervisor is not available, the employee should call the supervisor's designee, the appropriate Assistant or Deputy Commissioner. If the employee is unable to reach any employee of the division, he/she is to call the Human Resource Division and inform them of the absence.
- b. When an employee is unable to return to work due to illness or disability, and the employee has exhausted his/her right to FMLA, if that employee's Sick Leave Balance reaches zero, the appointing authority may choose one of the following:
 - i. Authorize the use of the employee's Annual Leave
 - ii. Authorize Leave Without Pay/Leave of Absence
 - iii. Remove the employee in accordance with the provisions of Civil service Rule 12.6, which govern non-disciplinary removals.
- c. When the appointing authority elects to take any of the actions in Item B.1.b. of this Policy Memorandum, such a decision shall be based on the following criteria:
 - i. The employee's Leave Record (use of Sick, Annual, and Leave Without Pay)
 - ii. The employee's past performance
 - iii. The current workload in the employee's division
 - iv. The recommendation of the employee's supervisor

C. Compensatory Leave

1. Compensatory Leave may be earned when a supervisor or a supervisor's designee requires an employee to work on a holiday or at a time when the employee is not regularly required to be on duty. At the discretion of the supervisor, Compensatory Leave may be granted for such overtime hours worked outside the regularly assigned work schedule or on holidays; however, employees exempt from the *Fair Labor Standards Act* (FLSA) shall be compensated in accordance with the FLSA.

Compensatory Leave is earned at either an hour-for-hour rate (Straight time) or an hour and a half for each hour of work (Time and a half). Employees are classified as exempt or non-exempt in accordance with the FLSA. The earning of Compensatory time is addressed in Policy Memorandum Number 30.

2. All requests for Compensatory Leave will follow the same guidelines as requests for Annual Leave.
3. It is mandatory that employees use Compensatory Leave prior to using Annual Leave.

D. Special Leave

1. An employee serving with job appointment, probationary or permanent status shall be given time off without loss of pay, Annual Leave, or Sick Leave for the following:
 - A. Civil Service Rule 11.23 covers situations in which the appointing authority *must* grant Special Leave; The most common of these situations are:
 - i. Performing jury duty
 - ii. Summoned to appear as a witness before a court, grand jury, or other public body or commission, provided that for purposes of the Subsection a plaintiff or defendant shall not be considered a witness, nor shall this Subsection apply to an employee summoned as a witness as a result of employment other than State employment.
 - iii. Performing emergency civilian duty in relation to national defense.

- iv. His/Her appointing authority determines that he/she is prevented by an act of God from performing duty.
- v. The appointing authority determines that because of local conditions or celebrations it is impracticable for his/her employees in such locality to work.
- vi. Participating in a State Civil Service examination on a regular work day, or taking a required examination pertinent to the examinee's State employment, before a State licensing board.
- vii. The employee is ordered to report for pre-induction physical examination incident to possible entry into the military forces of the United States.
- viii. The employee is a member of the national Guard and is ordered to active duty incident to local emergency, act of God, civil or criminal insurrection, civil or criminal disobedience, or similar occurrences of an extraordinary and emergent nature which threatens or affects the peace or property of the people.
- ix. Engaged in the representation of a client in a criminal proceeding pursuant to an order of a court of competent jurisdiction, provided if compensation for such services is available from another source, he may not accept the special leave and the compensation.
- x. The employee is a current member of a Civil Air Patrol and incident to such membership is ordered to perform duty with troops or participate in field exercises or training, except that such leave shall not exceed 15 working days in any one calendar year and shall not be used for union meetings or training conducted during such meetings.

E. Funeral Leave

1. Funeral Leave allows employees to take time away from work to attend funeral/burial rites of certain relatives without the loss of pay, Sick, or Annual Leave.

Civil Service Rule 11.23.1 provides that:

“Probationary and permanent employees be granted time without the loss of pay, Sick Leave, or Annual Leave when attending the funeral or burial rites of a **parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, father-in-law, grandparent, or grandchild**, provided that such time or shall not exceed two days on any one occasion.” Part three of the Civil Service Manual states that “the definition of this Rule also includes legally adopted children.”

F. Voting Leave

A probationary or permanent employee may be granted time off without Loss of Pay, Annual Leave, or Sick Leave when voting in a primary, general or special election which falls in his/her regularly scheduled work day, provided not more than two hours of leave shall be allowed to vote in the parish where he is employed and not more than one day to vote in another parish.

G. Voluntary Disaster Service Leave

A full-time probationary or permanent employee may be granted time off without Loss of Pay, Annual Leave, Compensatory Leave, or Sick Leave, for a period not to exceed 15 work days in a calendar year, to participate in American Red Cross relief services in Louisiana for disasters designated at Level III or above in the American Red Cross Regulations and Procedures. Such employees must have received a certification from the American Red Cross as a Trained Disaster Volunteer. All such requests must be made in writing and approved by the appointing authority.

H. Military Leave

1. Military leave with Pay.

- a. Provided they give advance notice, employees serving on job appointment, probationary or permanent status, who are members of a Reserve Component of the Armed Forces of the United States, shall be entitled to Military Leave with Pay.
- b. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.
- c. Maximum military leave with pay for military purposes is fifteen working days per calendar year, except that it shall be limited to fifteen working days for each active tour of duty.

2. Use of Annual and Compensatory Leave for Military Purposes.

- a. Employees serving on job appointment, probationary or permanent status, who give advance notice of military obligations and apply for Annual or Compensatory Leave for military purposes, shall be granted such leave.
- b. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.

3. **Use of Leave Without Pay for Military Purposes**

Employees either serving of job appointment status for significant periods of time, or probationary, or permanent status, who have either exhausted Annual Leave and Compensatory time or choose not to use this paid leave for military purposes, shall be placed on leave without pay. This period leaves without pay for military purposes shall not exceed six years. After six years, they shall be separated from the classified service.

4. **Rights Upon Return**

Probationary and permanent employees and employees serving on job appointments for significant periods of time returning to their classified positions under the provisions of this Rule or Rule 8.19, shall return with such seniority, status, pay, and Annual and Sick Leave accrual rates as they would have had if they had not been absent for military training or military active duty; however, status is subject to the provisions of Rule 9.3.

5. A probationary or permanent employee, who is a member of a reserve component of the Armed Forces of the United States and is involuntarily called to active duty prior to December 31, 1991 as a result of the August, 1990 Persian Gulf Crisis, and is released from satisfactory active military duty, after such involuntary service, upon furnishing appropriate official documents to his appointing authority and where the military base pay was less than the State base pay:

- a. (1) If paid leave was utilized during the entire period of voluntary service, shall be credited with the value of Annual and/or Compensatory Leave represented by the difference in military base pay and state base pay in the same proportion as that Annual Leave and/or Compensatory time was utilized during the period of involuntary service, and said credit shall be in the form of restoration of such leave; or

- (2) If leave without pay was utilized for the entire period of involuntary service, shall be paid the difference between the military base pay and the State base pay; or,

- (3) If leave without pay was utilized for a portion of the period of involuntary service, shall be paid a portion of the difference in military base pay and State base pay that is the same as the portion that leave without pay is of the total of all leave taken. For the remaining portion of the pay difference, part (a) shall apply.

Without regard to whether the military base pay was less than the State base pay.

- b. Shall be allowed fifteen (15) working days per calendar year of military leave with pay.
- c. Shall continue to accrue Sick and Annual Leave for a period not in excess of one year from the beginning date of involuntary service on the same basis as though he/she had not been activated and be credited such leave and all emoluments upon return from active duty as though he had not been activated.
- d. Shall be retained in either Leave With Pay or Leave Without Pay status for the durations for the involuntary active duty.
- e. Shall not be subject to separation for the duration of the resulting involuntary active duty, provided he/she returns to employment within ninety days after his release from active duty.
- f. May repurchase in one payment only all or part of any Annual Leave utilized during the period of involuntary service within twenty-four (24) months from return to active state service.
- g. A probationary or permanent employee, who was called to involuntary active duty as a result of the August, 1990 Persian Gulf Crisis, and resigned from the state service, may, at his request, and within 90 days of his release from active duty, have his resignation rescinded and become eligible for the benefits of subsection (5) of this rule.

I. General Guidelines

- 1. Failure to turn in and record a leave slip covering a period of absence, excused or unexcused, is a violation of Department Policy, and may result in disciplinary action and possible criminal prosecution as payroll fraud.
- 2. Immediately upon return to work from either Sick Leave or Emergency Annual Leave, the employee must complete Civil Service Form SF-6 "Application for Leave" and submit the completed form to his/her

supervisor for written approval and recordation on the Time and Attendance Report. The employee is responsible for providing a leave slip to account for all periods of time he/she is away from work. The supervisor is responsible for requesting and obtaining the needed leave slips and supporting documentation (if any).

3. The supervisor is responsible for ensuring that all leave slips are submitted to the timekeeper within the same pay period in which the leave is used.
4. The amount of Annual Leave paid by the Department when an employee retires (i.e. up to 300 hours) cannot be converted to retirement credit, and contributions cannot be made on this amount. However, any remaining unused Sick and Annual Leave certified to LASERS can be credited to the employee or given as a lump sum payment upon retirement.
5. According to Civil Service Rule 11.29(e):

“Upon separation or transfer from a department, the following shall apply to Compensatory Leave balances:

- a. All unused Compensatory Leave earned at the time and one-half rate and credited to an employee shall be paid upon his/her separation or transfer from the department in which he/she earned it at one of the rates below, whichever is higher:
 - i. The average regular rate received by the employee during the last three years of his employment, or
 - ii. The final regular rate received by the employee.
- b. All unused Compensatory Leave earned hour for hour and credited to an employee may be paid upon his/her separation or transfer from the department in which he earned it at the regular rate received by the employee, excluding premium pay, shift differential, and non-cash compensation.
- c. All unused Compensatory Leave earned hour for hour, if not paid to the employee upon his separation shall be cancelled upon his/her separation or transfer from the department in which he earned it. Such leave shall not be recredited to him/her upon his/her reemployment in that or any other department.



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POLICY MEMORANDUM NUMBER 53

Signatures on Time & Attendance Records

February 1, 2002-REVISED

To: All Employees

From: Chad M. Brown, Deputy Commissioner
Office of Management & Finance

A handwritten signature of Chad M. Brown, Deputy Commissioner, is written over the printed name and title.

I. PURPOSE

The purpose of this Policy Memorandum is to establish a uniform policy regarding operating procedures in obtaining required signatures on the original time and attendance records.

II. GUIDELINES

The Civil Service Rule 15.2 which states that "each agency should develop procedures which will provide for an employee's signature (or initials) on the time and attendance reports, and shall require employees to initial the bi-weekly or semi-monthly attendance record at the end of each pay period".

These procedures are mandated by the Legislative Auditor.

This department has adopted a bi-weekly system.

III. PROCEDURE

Timekeeper Responsibilities

The timekeeper is responsible for the completion and bi-weekly submittal of the original time and attendance records and all relative forms. This includes the original Fixed Time Entry Sheet, Leave Slips, Overtime Sheets, and UPR/F 150 (Prior Period Payroll Adjustment Form), which are submitted to the Human Resource Office/Payroll.

Supplemental Fixed Time Entry Sheets will be provided for the field examiners and employees on extended leave.

The Fixed Time Entry Sheet for Student/Restricted/Seasonal employees will reflect the number of hours actually worked.

The timekeeper secures all required signatures on the original Fixed Time Entry Sheet, Leave Slips, and Overtime Sheets. The timekeeper also secures all approvals necessary on these records.

Required Signatures are:

Leave Slips

Signed by employee

Approved/signed by employee's supervisor

Fixed Time Entry Sheets

Signed by employee

Signed/approved by either the designated supervisor, or Assistant Commissioner (or equivalent), or Deputy Commissioner

Overtime Sheets

Signed by employee

Approved/signed by the designated supervisor, or Assistant Commissioner (or equivalent), or Deputy Commissioner

In the event that a required signature cannot be obtained prior to submittal to the Human Resource Office/Payroll the timekeeper must prepare a written justification explaining why a signature could not be obtained, and when this signature can be obtained.

The timekeeper enters into the ISIS system time and attendance records for student/restricted appointment/seasonal employees as often as possible, preferably on a daily basis. Timekeepers submit these hourly employees hours worked every Monday morning in order to achieve accuracy of records and avoid overpayments.

The timekeeper should retain a copy of all documents submitted to the Human Resource Office/Payroll, however, all original documents will be retained in the Human Resource Office/Payroll.

The timekeeper shall report any adjustments for the prior pay period on the UPR/F 150 (Prior Period Payroll Adjustment Form), accompanied by any other necessary documentation such as leave slips, overtime sheets, etc.

The timekeeper should advise the supervisor of their subordinates' leave balances every pay period.

Supervisor's responsibilities

Supervisors should monitor timekeeper work activities and assure cooperation of staff.

Supervisors should advise timekeepers of termination dates for any employee separating during the current pay period, so that the timekeeper can document this date on the Fixed Time Entry Sheet.

In the event that a supervisor has approved the use of annual leave for an illness or injury for an employee who has exhausted all of their sick leave, the supervisor should advise the timekeeper and make a notation on the fixed time entry sheet.

In the event of a timekeeper's absence during a payroll deadline, the supervisor should secure the presence of a backup for the timekeeper.

The supervisor should be aware of any subordinate employee that is approaching a "leave without pay" status. When an employee does not have leave on the record, that employee should not be coded as taking leave; this should be coded as leave without pay.

Human Resource/Payroll responsibilities

The original Fixed Time Entry Sheet and supporting documentation is submitted to the Human Resource Office/Payroll by the timekeeper on a bi-weekly basis. These forms are the official time and attendance records and will remain in the Human Resource Office/Payroll after submittal.

All documents will be reviewed for accuracy and to ensure that all required signatures have been obtained.

In the event that the required signatures are not on the original documentation, i.e. the Fixed Time Entry Sheets, Leave Slips, etc., a payroll clerk will notify the employee via E-mail, and copied to the employees' supervisor. Signatures must be obtained prior to payday Friday.

The Deputy Commissioner of Management & Finance will be notified by the human resource staff if there is a delay in obtaining the required signatures of employees.

Employees that are on extended leave will be provided a supplemental fixed time entry sheet, to be returned to the timekeeper in a timely manner.

A UPR/F 150 (Prior Period Payroll Adjustment Form) is required to report any adjustments to a prior pay period, the timekeeper will be notified if this document is not submitted.

APPROVALS

A supervisor "within division's unit of chain of command" will approve the time and attendance records and relative documentation. During the absence of such a supervisor, the Assistant Commissioner (or equivalent) or Deputy Commissioner will approve the Fixed Time Entry Sheets, and all Overtime Sheets.



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POLICY MEMORANDUM NUMBER 30-REVISED

Overtime and Compensatory (K-Time) Leave

July 24, 2002

To: All Employees

From: Chad M. Brown 
Deputy Commissioner
Office of Management & Finance

I. PURPOSE

The purpose of this Policy Memorandum is to inform employees of the Department of Insurance of policy regarding Overtime Work and the Accrual of Compensatory (K-Time) Leave.

II. GUIDELINES

- A. It is the policy of the Department of Insurance **NOT** to pay cash for overtime work performed by a regular employee. Employees who are on temporary appointments and do not earn leave such as Students, Seasonal, Restricted Appointees, etc. will receive cash payment for overtime work performed.

Overtime work is discouraged; however, there are times when a supervisor/division director will deem overtime work necessary by one or more employees in order to maintain the efficiency of the Division.

When such overtime work is authorized, employees will be compensated by earning compensatory leave (K-Time Leave) in accordance with the provisions of the Fair Labor Standards Act and the Rules and Regulations of the State Department of Civil Service. In case of conflict, Federal laws take precedence.

According to Civil Service Rule 6.18, the definition of an overtime hour is:

An overtime hour is an hour worked by an employee at the direction of his appointing authority

- (a) On the employee's official holiday.
- (b) In excess of the regular duty hours in a regularly scheduled workday.
- (c) In excess of the regular duty hours in a regularly scheduled workweek.

- (d) In excess of forty hours worked during any regularly recurring and continuous seven-day calendar work period where excessive hours are systematically scheduled. Any holiday observed during the work period is counted as a day worked.
- (e) In excess of eighty hours worked during any regularly recurring and continuous bi-weekly calendar work period where excessive hours are systematically scheduled. Any holiday observed during this work period is counted as a day worked.
- (f) In excess of the hours worked in a regularly established, continuous, and regularly recurring work period where hours average forty hours per week, regardless of the manner in which scheduled, and where excessive hours are systematically scheduled. Any holiday observed during the work period is counted as a day worked.
- (g) A day on which a department or a division thereof, is closed by direction of the appointing authority because of natural emergencies, in accordance with the provisions of Section B(5) of the LSA – R.S. 1:55.

B. Prior to the Working of Scheduled Overtime, verbal approval should be secured from the appropriate or designated Supervisor.

1. There may be instances in which a Supervisor must make a judgment decision and require an employee to work overtime without advance approval. In such instances, the Supervisor will notify the Assistant Commissioner (or equivalent), and/or the Deputy Commissioner for the affected Office.
2. Hours worked overtime must be reported on Department of Insurance form "Certification of Compensatory Hours Earned".
 - a. The Certification shall include a record of the actual hours worked (please note overtime worked on Saturday, Sunday, and/or Holiday should be recorded exactly as it occurred; for example, if a lunch break was taken the employee should sign out for lunch and sign back in when lunch is concluded; only the actual hours that an employee worked should be recorded on the certification form), the nature of the work performed, and the signatures of the employee, the designated supervisor, or Assistant Commissioner (or equivalent) and/or the Deputy Commissioner.
 - b. The original of the Certification will be maintained in the files of the Human Resources/Payroll Office.
3. Employees are not to work at home or any place other than their designated work area which are without prior approval from an Appointing Authority. In order to obtain prior approval employee's are to complete the "Approval for overtime worked at

home" form (attached). The original form must accompany the Time & Attendance records maintained in the Human Resources/Payroll Office.

- C. No employee of the Department of Insurance may accumulate more Compensatory Leave than is allowed under the provisions of Civil Service Rule 6.25.

1. Full time employees who actually work in excess of forty hours per week shall be permitted to earn compensatory leave for authorized overtime hours under Civil Service Rule 6.20, as follows:

GS 12 Pay Range and Below Accrual at time and one-half rate
GS 13 Pay Range and Above Accrual at hour-for-hour rate

2. The Fair Labor Standards Act (FLSA) exempts three classifications of employees from time-and-one-half compensation for overtime worked:

- a. Executive
- b. Administrative
- c. Professional

Whether or not an employee is exempt is determined by their duties and responsibilities and the salary paid, and is explained in U.S. Department of Labor, Employment Standards Administration Wage and Hour Publication 1363. To simplify determination, the State Department of Civil Service established that job titles at the range of GS 13 and above are generally considered to be exempt employees, but provides that agencies may submit requests to grant time-and-one half compensation rate for overtime hours worked by employees in job titles at level GS 13 and above if justification can be given for non-exempt status.

3. Full time employees, whether non-exempt or exempt from FLSA, who work approved overtime hours not actually in excess of forty hours per week due to holidays observed or taken, shall earn compensatory leave at the hour-for-hour rate in accordance with Civil Service Rule 6.21.

- D. The Department of Labor, Wage and Hour division, will notify any agency when a complaint is received by an employee who has been forced to work overtime and who has not been properly compensated under the Fair Labor Standards Act.

1. It is mandatory that each employee's scheduled work hours be on file with the Human Resources/Payroll Office, and that any change in an employee's work schedule be approved by the Deputy Commissioner of Management & Finance.